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Of Counsel
Einbinder & Dunn, LLP

January 16, 2022

Hon. John G. Koetl
United States District Court Judge
U. S. District Court
500 Pearl Street
New York, NY 10007 - 1312

Re: Espire Ads, LLC et al v. TAPP Influencers Corp. et.
al., 21-cv-10623-JGK

Dear Judge Koetl:

This letter is to request a pre-motion conference with respect to defendants' anticipated motion to dismiss and/or summary judgment based upon documentary evidence.

The complaint asserts some 39 causes of action against some or all of 6 defendants ranging from alleged violations of Federal RICO, trade secret and antitrust statutes to a variety of state law claims.

For all of the defendants, motions will include the lack of capacity of Espire to bring an action in New York having failed to register as a foreign entity while doing business in New York in the past, the failure to state a cause of action for a number of causes of action, the bunching of claims against defendants and the existence of documentary evidence establishing the lack of a plausible claim on which plaintiffs can prevail, which will include proof that in fact, Espire stole its "trade secrets" from defendants. Motions will include a lack of personal jurisdiction over defendants Emert, a Florida resident, and Kastner, a Texas resident, and the unenforcability of any alleged restrictive covenants which Espire claims defendants are bound to.

With respect to individual causes of action, the motion to dismiss and/or summary judgment based on documentary evidence will include but not be limited to the multiple claims against Steven Forkosh relating to an alleged agreement with plaintiff Navarro which was never effectuated and then was rescinded.

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The motion for failure to state a cause of action and/or lack of a plausible claim on which plaintiffs can prevail will also address the lack of sufficient allegations of fact to support the causes of action for, inter alia, RICO, CFAA, DTSA, restraint of trade and copyright violations, unfair competition, tortious inference, trade secret misappropriation, fraud, breach of fiduciary duty, conversion, unjust enrichment, accounting and dissolution and the cause of action against Forkosh individually seeking to pierce the corporate veil.

A conference is requested as which time greater detail can be provided if required.

Respectfully,

Richard L. Herzfeld

RICHARD L. HERZFELD

cc via ECF: Zachary Meyer, Esq.